

EDMONDS CITY COUNCIL APPROVED MINUTES

July 5, 2011

The Edmonds City Council meeting was called to order at 7:02 p.m. by Mayor Cooper in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Mike Cooper, Mayor
Strom Peterson, Council President
Steve Bernheim, Councilmember
D. J. Wilson, Councilmember
Michael Plunkett, Councilmember
Lora Petso, Councilmember
Adrienne Fraley-Monillas, Councilmember
Diane Buckshnis, Councilmember

ALSO PRESENT

Peter Gibson, Student Representative

STAFF PRESENT

Al Compaan, Police Chief
Carrie Hite, Parks & Recreation Director
Rob Chave, Planning Manager
Carl Nelson, CIO
Frances Chapin, Cultural Services Manager
Mike Clugston, Planner
Gina Coccia, Associate Planner
Jeff Taraday, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

Councilmember Petso requested Items F and H be removed from the Consent Agenda.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCIL PRESIDENT PETERSON, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

A. ROLL CALL

B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JUNE 28, 2011.

C. APPROVAL OF CLAIM CHECKS #126294 THROUGH #126402 DATED JUNE 30, 2011 FOR \$277,751.78.

D. ACCEPTANCE OF QUIT CLAIM DEED FOR OLD MILLTOWN COURTYARD.

E. POLICE DEPARTMENT ANNUAL REPORT 2010.

G. ORDINANCE NO. 3845 – AMENDING THE EDMONDS COMMUNITY DEVELOPMENT CODE BY REPEALING AND REENACTING THE PROVISIONS OF CHAPTER 20.50 (WIRELESS COMMUNICATIONS FACILITIES) AND AMENDING OTHER REFERENCES AND DEFINITIONS AS NECESSARY.

ITEM F: ORDINANCE NO. 3844 - APPROVING A CHANGE IN ZONING FOR CERTAIN REAL PROPERTY LOCATED AT 9511 AND 9513 EDMONDS WAY FROM RESIDENTIAL SINGLE FAMILY (RS-8) TO RESIDENTIAL MULTIFAMILY (RM-1.5)

Councilmember Petso explained when the Council previously considered this item, she determined the rezone did not meet the rezone criteria and she voted not to approve the rezone and will do so again.

COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE ITEM F.

As he was absent from the meeting when the closed record review occurred, Councilmember Wilson advised he would abstain from the vote.

MOTION CARRIED (4-2-1), COUNCILMEMBERS PETSO AND PLUNKETT VOTING NO AND COUNCILMEMBER WILSON ABSTAINING.

ITEM H: ORDINANCE NO. 3846 – RELATING TO REDUCING SETBACK REQUIREMENTS IN THE BN ZONE, ALLOWING SETBACKS IN THE WESTGATE PORTION OF THE BN ZONE TO BE REDUCED AS LONG AS CERTAIN DESIGN STANDARDS ARE MET, AMENDING EDMONDS COMMUNITY DEVELOPMENT CODE SECTION 16.45.020 AND ESTABLISHING A TWELVE MONTH SUNSET PERIOD FOR THE ORDINANCE.

Councilmember Petso explained this was a proposal to change the setbacks in Westgate from 20 feet to 5 feet. She was opposed to the proposal when the Council previously considered it and following her continued research on the Westgate area including reviewing the marketing study, she remained opposed.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCIL PRESIDENT PETERSON, TO APPROVE ITEM H. MOTION CARRIED (6-1), COUNCILMEMBER PETSO VOTING NO.

3. COMMUNITY SERVICE ANNOUNCEMENT: WALK BACK IN TIME TOUR OF THE EDMONDS MEMORIAL CEMETERY.

Dale Hoggins, Cemetery Board, invited the public to an open house at the Edmonds Memorial Cemetery, Walk Back in Time, a guided tour conducted on Thursday, July 21 at 1:00 p.m. He commented on the City's history of political activism; the first five ordinances the City Council dealt with were in regard to gambling, alcohol regulation, prostitution, female dogs and wandering cattle. The City's history includes many ballot issues related to alcohol and gambling. During one of the anti-gambling periods, the then-Mayor unknowingly rented his basement for a gambling den.

He referred to several of Edmonds' historic figures including two brothers and a cousin who walked from their farm near Alderwood Mall to attend high school in Edmonds; a bachelor who lived near Meadowdale who married a widow with several children and rowed his boat four miles to Edmonds on Mondays so the children could stay with a friend to attend school and he rowed back to get them on Fridays; and the Norwegian immigrant who fled occupied Norway as a teen, joined the Norwegian Air Force and participated in the bombing raid that sank the second largest German battleship.

Mr. Hoggins summarized the cemetery belongs to the Edmonds residents, it has a rich history and it is open for business.

4. COMMUNITY SERVICE ANNOUNCEMENT: EDMONDS PETANQUE CLUB

Dick Van Hollenbeck, Edmonds Petanque Club, explained petanque, is a French game brought to Edmonds by **Michelle Martin, President, Edmonds Petanque Club**. Ms. Martin explained petanque is

an easy to play, outdoor game. It is one of the fastest growing sports in the United States and supported by the Federation of Petanque (FPUSA). It is suitable for all ages, affordable and fun.

Mr. Van Hollenbeck described how petanque came to Edmonds. He and his wife were walking by the Civic Center Playfield when Ms. Martin invited them to play. After playing, he found it a fun game.

Ms. Martin explained she approached then-Parks & Recreation Director Brian McIntosh about building a petanque court in Edmonds. He suggested Civic Center Playfield. With the help of the president of the Seattle Petanque Club who provided the specifications for a court, a court was constructed in June 2010. Due to interest in petanque in Edmonds, this year the Edmonds Petanque Club was started, a non-profit organization affiliated with the FPUSA. There are 27 members and a need for more petanque courts.

Mr. Van Hollenbeck explained they approached Parks & Recreation Director Carrie Hite about constructing new courts and were told the City had no money. She suggested if the club could raise the money for the materials, Parks & Recreation staff could do the construction in between their other tasks. The club approached the Hubbard Family Foundation who provided funding for materials and City staff constructed the courts over a period of time between their other tasks.

Mr. Van Hollenbeck invited everyone to a ribbon cutting on Saturday, July 16 at 10:00 a.m. Following the ribbon cutting there will be a demonstration and free lessons. He pointed out the numerous amenities at the Civic Center Playfield including a children's playground, running tracks, baseball fields, soccer field, skateboard park, tennis and basketball courts, an old-fashion grandstand, and three petanque courts.

Ms. Martin announced the inaugural Edmonds Petanque Tournament on Sunday, July 17; register online or at 8:00 a.m. at the site. The cost for a two-person team is \$25 per person with a free T-shirt. Participants can bring a teammate or be assigned one. Temporary courts will be set up on the soccer fields. Finals will be held on the three groomed courts. Top three teams will receive medals and publicity.

Mr. Van Hollenbeck encouraged everyone to attend this community event. People of all ages and physical abilities can play petanque. It is affordable to all; courts are free to use and equipment is inexpensive and lasts a lifetime. It is fun for kids, teens and families. Demonstrations are planned or underway with the Boys & Girls Club, French class students, visitors from Hekinian, Japan, and Taste of Edmonds.

Mr. Van Hollenbeck explained the soccer field can be divided into 30+ temporary courts for tournaments and there are 3 permanent courts, enabling the club to host tournaments for 100-150 people. Those people stay in Edmonds, eat in restaurants and shop downtown and discover all Edmonds has to offer including the waterfront, downtown, summer market, overnight accommodations, restaurants, Yost Pool and Park, Edmonds Center for the Arts, the movie theater and local businesses. Petanque has tremendous economic development possibilities and will help establish Edmonds as a destination for sports tourism. Petanque tournaments appeal to players from multi-state regions. Tournaments over multiple days encourage overnight stays and local shopping and dining. Further details are available at EdmondsPetanqueClub.org.

Council President Peterson reported he is a member of the Edmonds Petanque Club, serves on the Board and has found petanque to be a fantastic game.

5. PROCLAMATION FOR PARKS AND RECREATION MONTH.

Mayor Cooper reported he led the walk at the Senior Center this morning and encouraged Councilmembers to sign up to lead a walk. He read a proclamation declaring July Parks and Recreation Month in Edmonds. He referred to the statement in the proclamation regarding people with physical disabilities, explaining approximately two years ago his daughter approached the City's Parks Department because none of the swings in the City's parks were accessible for children with disabilities. As a result

the new playground at Hickman Park has swings for children with disabilities and all future parks will include swings for children with disabilities. He emphasized the City's parks are for people of all abilities.

Parks & Recreation Director Carrie Hite highlighted what Parks & Recreation offers:

- Flower program – 2 FTEs work with the program and the Edmonds Floretum Garden Club provides a tremendous amount of help and support
- Kids programming in the Frances Anderson Center – gymnastics, fitness programs, Taekwondo, soccer, basketball, drop-in programs, etc.
- Music classes
- Family taekwondo
- Day camps
- Adult and senior softball leagues
- Collaborative and joint programming with the Senior Center such as “Step Out Edmonds,” a senior walk program
- Yost Pool
- Beach Ranger Program
- Parks – in addition to enjoying the City's parks, citizens can volunteer to assist with maintenance
- Playgrounds
- Fishing Pier
- Edmonds Marsh – one of the only saltwater-fresh water marshes left in Washington
- Concerts in the Park
- Movies in the Park – movies scheduled on July 29 and August 5
- Off Leash area – the Off Leash group recently donated \$800 for fencing at the off leash area.

Ms. Hite recognized Cultural Arts Manager Frances Chapin for her efforts with public arts, the Arts Commission, music, concerts, etc. Ms. Hite then identified new programs/projects this year:

- Two new petanque courts
- Construction of the interurban bicycle/pedestrian trail connection will begin in July
- Michelle Obama's Let's Move program
- Step Out Edmonds (senior walking program)
- Old Milltown Park (rehab begins this fall)
- Yost Pool rehab has been completed
- New Parks & Recreation website coming soon

Councilmember Buckshnis relayed the Floretum Garden Club is very impressed with Ms. Hite's passion and communication. Senior Center Director Farrell Fleming is also impressed with what Ms. Hite is doing with the Senior Center.

6. **PUBLIC HEARING ON THE APPLICATION FOR A RENEWAL OF A CONCESSION AGREEMENT. THE AGREEMENT IS FOR THE USE OF THE PUBLIC RIGHT-OF-WAY TO VEND FOOD AND BEVERAGES. THE SITE IS LOCATED AT JAMES STREET IMMEDIATELY EAST OF THE FERRY HOLDING LANES AND IS ADJACENT TO THE SR104 PARK. (APPLICANT: KALANI KAHAIALII, ANGELO NARCISO, CYNDI AIONA COOK / SHORTS 'N SLIPPAS, LLC).**

City Clerk Sandy Chase explained Edmonds City Code 4.04 describes a concession agreement as a lease of public property or City right-of-way. Decisions to lease City property or public right-of-way are legislative decisions to be granted at the sole discretion of the City Council. Shorts 'n Slippas operates a business commonly referred to as the Hula Hut from a small trailer in the public right-of-way at the end of James Street near the ferry holding lanes. They have been in business in this location since July 2008.

This is a one-of-a-kind agreement as there are currently no other locations under the City's jurisdiction near the ferry holding lanes that will accommodate a vendor. The current monthly lease amount is \$103 plus leasehold excise tax. Due to the slow economy, staff does not recommend an increase. The term of the agreement is one year. Section 4.2 of the agreement states the City Council reserves the right to terminate the provisions of the agreement at any time upon the provision of 48 hours written notice.

Councilmember Fraley-Monillas asked whether the City Clerk's office has received any complaints regarding this business. Ms. Chase answered she has not.

Mayor Cooper opened the public participation portion of the public hearing.

Al Rutledge, Edmonds, suggested a small increase in the monthly lease amount would be appropriate, recognizing the ferry has also increased their fares.

Hearing no further comment, Mayor Cooper closed the public participation portion of the public hearing.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER BERNHEIM, TO APPROVE THE CONCESSION AGREEMENT.

Councilmember Buckshnis commented this business does not always have a steady flow of customers, thus the lease amount is appropriate.

Councilmember Petso thanked Ms. Chase and Ms. Hite for exchanging emails with her today regarding the lease amount. The lease is not a large amount for an exclusive franchise in the ferry holding lane. Ms. Hite is researching vendors for the park system and as a result there may be a more uniform approach to vendor contracts in the future.

MOTION CARRIED UNANIMOUSLY.

7. **PUBLIC HEARING ON THE PLANNING BOARD RECOMMENDATION REGARDING A COMPREHENSIVE PLAN AMENDMENT BY SIDNEY ODGERS AND KEN & AUDREY DARWIN FOR A PROPOSED CHANGE IN PLAN DESIGNATION FROM "SINGLE FAMILY URBAN 1" TO "EDMONDS WAY CORRIDOR" FOR THREE PROPERTIES IN THE SINGLE FAMILY RESIDENTIAL (RS-8) ZONE. LOCATION: 8609/8611/8615 – 244TH STREET SW, EDMONDS. (FILE NO. AMD20110001)**

City Attorney Jeff Taraday advised this is a legislative matter.

Associate Planner Gina Coccia explained the deadline for Comprehensive Plan amendments is December 31. This is the only citizen-initiated Comprehensive Plan amendment the City received for 2011. The request is to change the Comprehensive Plan designation from Single Family Urban 1 to Edmonds Way Corridor. She displayed the Comprehensive Plan map, Exhibit 1 Attachment F, and identified the site which consists of 3 properties located on 244th Street SW adjacent to the Edmonds Way Corridor designation. She displayed the zoning map, advising the current zoning is consistent with the Comprehensive Plan map. The property is currently zoned RS-8 single family and is adjacent to multi-family residential RM 1.5. She provided photographs of the properties as viewed from the street and views looking east and west along 244th Street SW, noting the topography is fairly flat. The Les Chateau 18-unit condominiums are immediately adjacent to the properties to the east and there are 15 units on the next property further east.

Ms. Coccia reviewed a comparison of Plan Map Designations, Land Use Type, Compatible Zoning Classifications and Density units/acre. The properties are currently designated Single Family Urban 1; the applicant would like to change the designation to allow them to eventually apply for a rezone to multi-

family. The designations they can choose from are Edmonds Way Corridor which is adjacent to the east or her preference would be Multi-Family - High or Multi-Family - Medium Density. If the Council approved a Comprehensive Plan amendment to Edmonds Way Corridor, the applicant could later submit a rezone application to apply for a rezone to Planned Business, Neighborhood Business, Community Business or a similar commercial zone or any of the multi-family zones.

The applicant's application stated they would like to change the designation to Edmonds Way Corridor. Staff and the Planning Board recommend changing the designation to Multi-Family - Medium Density which would allow the applicant to submit a rezone to RM 2.4 or RM 3.0. The Council packet contains the staff report and Planning Board minutes that outline the Planning Board's discussion regarding density and a future rezone.

Comprehensive Plan amendments are a Type V legislative action. Staff reviews the proposal and makes findings, conclusions and a recommendation to the Planning Board. The Planning Board holds a public hearing and makes a recommendation to the Council and the City Council makes the final decision. To date no public comment has been received and there was no appeal of the SEPA determination. The applicable code sections are ECDC Chapter 20.00, Changes to the Comprehensive Plan.

She reviewed staff's findings with regard to the following questions:

1. ***Is the proposed amendment consistent with the Comprehensive Plan and in the public interest?***
Staff found the area provides a key link between Edmonds and I-5. The primary focus of the goals are to permit small scale multi-family or commercial land use that do not significantly contribute to traffic congestion. The owners' goal is to apply for a rezone to one of the multi-family RM zones; changing the Comprehensive Plan designation to either Edmonds Way Corridor, Multi-Family - High Density or Multi-Family -Medium Density would suit their needs.
2. ***Is the proposed amendment detrimental to the public interest, health, safety or welfare of the City?*** Staff finds nothing detrimental as nothing is proposed other than a change in designation.
3. ***Does the proposed amendment maintain the appropriate balance of land uses within the City?***
Staff finds that it does. The Edmonds Way Corridor makes up 0.6% of the City's land, while Single Family Urban makes up 40.5%. Further, 54.8% of the existing land use in the City is single family while only 4.8% is multi-family and 4.6% is commercial. An eventual shift or future rezone of less than one acre (.88 acres) from single family to either multi-family or commercial will not drastically disrupt the balance of land uses within the City.
4. ***Is the subject parcel physically suitable for the requested land use designation and the anticipated land use development?*** The subject parcels are physically suitable for the proposed designation change. The area is flat and located on a major arterial. The intensity of development increases as you travel east along 244th Street SW towards Highway 99 and Interstate 5. These parcels are adjacent to the border of the more intense corridor designation.

Ms. Coccia concluded staff finds the application meets all the criteria to approve a Comprehensive Plan amendment. Staff recommends the Council deny the original request, a change from Single Family Urban 1 to Edmonds Way Corridor and approve a change from Single Family Urban 1 to Multi-Family - Medium Density. This would provide a transition between commercial, multi-family and single family. Commercial would not be a permitted potential rezone for a multi-family designation.

Councilmember Buckshnis observed there are numerous trees on the properties and trees are very important for stormwater as well as aesthetics. She asked how and when the trees will be addressed. Ms. Coccia answered trees are addressed in future processes. The next process would be to apply for a rezone. The applicant would submit an application to staff who makes a recommendation to the Planning Board and the Council makes the final decision. Another Environment Checklist will be completed with the

rezone. Any land use application is routed to Public Works and Engineering so any issues can be addressed. If a rezone is approved in the future, any development application will be reviewed by the Architectural Design Board.

Councilmember Buckshnis asked how traffic generated by greater density would be addressed. Ms. Coccia advised that will be considered during a future rezone process, Design Board application, and building permit applications.

Councilmember Petso asked if there is a minimum lot coverage in a multi-family zone. Ms. Coccia answered the maximum lot coverage in any multi-family zone is 45%; only 45% of the property can be covered by a structure. The Engineering Department will review impervious surface calculations with regard to lot coverage.

Councilmember Petso commented the nearest park is Hickman Park located at least 1½ miles away. The Environmental Checklist does not address parks other than to identify a golf course a mile away. She asked how increasing density in areas not served by parks was consistent with the Comprehensive Plan which states a neighborhood park should be within ½ mile. She asked if the GMA concept of not adding people to an area until the services are available applied to parks. Ms. Coccia answered at the Comprehensive Plan amendment stage the code criteria in Chapter 20 for approving a Comprehensive Plan amendment is all that can be considered. Planning Manager Rob Chave explained there is a difference between parks and transportation; there is specific guidance in the GMA for transportation concurrency. The same is not provided for parks, schools, etc. Over time as a neighborhood changes significantly, it may be necessary to alter plans. If the density were being changed in a large area, there would be a closer look at the interaction between parks planning and land use. In this case it is a very minor change. Councilmember Petso observed the criteria include consistency with the Comprehensive Plan and whether it is in the public interest. Mr. Chave agreed.

Councilmember Bernheim asked for clarification between the Planning Board and staff's recommendation for the specific zoning and the applicant's request for Edmonds Way Corridor. He also asked how many units can be developed on the property under the multi-family zones. Ms. Coccia advised the applicant expressed a desire to do something else with their properties, and referred to the condominiums next door. They were informed they would need to first apply for a Comprehensive Plan amendment to be consistent with multi-family zoning. When they completed the application, they chose the adjacent designation, Edmonds Way Corridor. Their application states their intent is to develop the property multi-family and not commercial. If the Council approved a change to Multi-Family - High Density, a consistent zone would be RM 1.5 or RM 2.4. Based on 39,000 square feet of lot area, under RM 1.5 zoning they could potentially develop 26 units although that would be unlikely due to parking, setback, height, etc. RM 2.4 zoning would yield a maximum of 16 dwelling units and RM 3.0 would yield a maximum of 13 dwelling units.

Councilmember Bernheim pointed out 45% lot coverage was for the structures and asked whether the remaining 55% could be covered by a parking lot. Ms. Coccia advised the landscape requirements would not allow the entire property to be covered by a parking lot. Councilmember Bernheim asked whether most of the property could be covered with parking as long as the edges were landscaped and water runoff controlled. Ms. Coccia was uncertain how such a site plan would meet the City's codes regarding landscaping, design, etc. She summarized it was doubtful the remainder of the property could be paved due to the landscape requirements and there are stormwater requirements that Engineering will impose.

Councilmember Plunkett asked how long the applicants have owned the property. Ms. Coccia did not know and invited Councilmember Plunkett to ask the applicants.

Mayor Cooper opened the public participation portion of the public hearing.

Sidney Odgers, Edmonds, advised he owns 8615 244th Street SW and the Darwins owns 8609 and 8611 244th Street SW. He noted the two houses in front are rundown and the owner was unable to sell them last year. The Darwins approached him to determine his interest in redeveloping the properties. He noted most of the trees are on the perimeter of the property line and several separate his property from the Darwin's property. He acknowledged some of the trees may need to be removed but this is not the development stage. All the buildings around the properties are at least two stories. He has lived on the property for 33 years. When he moved there the existing structures fit the area but they do not any longer. He was not interested in one large building and envisioned possibly four buildings with four units each to provide a transition. With regard to traffic, there is one eastbound and one westbound travel lane with a center turn lane. They can easily exit their property by entering the turn lane. Although there is not a park in close proximity, the YMCA is approximately one mile away.

Al Rutledge, Edmonds, explained he lives approximately one mile from the site. During this difficult economy, he agreed with staff's recommendation, pointing out development would increase the value of the property.

Hearing no further comment, Mayor Cooper closed the public participation portion of the public hearing.

Councilmember Wilson pointed out there is a small park, Mathay Ballinger Park, located 0.7 miles away. With regard to coverage, he noted the coverage on the existing properties is almost entirely impermeable surface and that there are limited to no drainage issues. Ms. Coccia advised she visited the site when the application was submitted and agreed there was a great deal of pavement. Coverage as defined in the code is different than what people think of as coverage. Her comment was structural coverage which is limited to 45%.

Councilmember Wilson pointed out there is currently a great deal of coverage on these lots and he did not anticipate replacing the asphalt would create a tremendous stormwater issue. He recalled doorbelling those three houses and without being disrespectful, stated the two houses that front on the street are ripe for redevelopment and he welcomed any interest in redeveloping those properties.

Mayor Cooper reopened the public participation portion of the public hearing.

Councilmember Plunkett asked Mr. Darwin how long he has lived at the property. **Ken Darwin, Edmonds**, responded seven years.

Hearing no further comment, Mayor Cooper closed the public participation portion of the public hearing.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCIL PRESIDENT PETERSON, TO ADOPT THE PLANNING BOARD RECOMMENDATION TO APPROVE A COMPREHENSIVE PLAN MAP AMENDMENT FOR THE SUBJECT PROPERTIES FROM "SINGLE FAMILY URBAN 1" TO "MULTI FAMILY - MEDIUM DENSITY" AND DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE TO IMPLEMENT THE CHANGE MOTION CARRIED UNANIMOUSLY.

8. AUDIENCE COMMENTS

Al Rutledge, Edmonds, referred to the 1.5% salary increase for 4 years that the Council approved last week. He suggested the Council consider whether businesses and residents in the City have received similar increases. Next he relayed that former Councilmember Bill Kasper, who passed away recently, started the Flower Program.

9. UPDATE ON MEDICAL MARIJUANA DISPENSARIES

Planning Manager Rob Chave explained because the current moratorium will expire later this month, staff felt it appropriate to provide the Council an update.

Susan Drummond, Lighthouse Law Group (City Attorney) observed the moratorium on medical marijuana dispensaries that the Council adopted in January 2011 will expire July 28, 2011. The Council adopted the moratorium because the state legislature was considering a state certification process for medical marijuana dispensaries. Over a decade ago a citizen's initiative was enacted that allows medical marijuana use but does not provide an efficient process for dispensing. The legislature did adopt a state siting process. The Governor reviewed it and consulted with the federal Department of Justice and asked whether federal immunity would be granted for state employees during the licensing process. The Department of Justice said although they would not devote resources to enforcing federal laws against seriously ill people who are in compliance with state law, they could not give immunity. That was the primary reason the Governor vetoed much of the legislation. At this point the situation is back where it started; dispensing medical marijuana is illegal under both state and federal law. The issue may come up again in the next legislative session.

The Council has three options as outlined in the packet:

- Do nothing because the use is prohibited under state and federal law.
- Address it through the business license process via prohibiting business licenses for uses prohibited by federal law. The City's current license provisions prohibit issuing licenses for uses that violate local city ordinances or state law.
- Address it via zoning. This approach is the most resource intensive for a use that is not permissible under state or federal law.

If the Council does nothing Councilmember Buckshnis asked whether they then wait to see what happens at the state and federal level. Ms. Drummond answered yes. She offered to provide another update prior to the next legislative session.

Councilmember Wilson asked why the Council had passed the interim ordinance on staff's recommendation in January. Ms. Drummond responded the moratorium was adopted in January as a proactive measure due to concern that the licensing process would be passed by the legislature and people would apply for a business license for a medical marijuana dispensary. If there was a state siting process, the City wanted an opportunity to plan for that process. The legislation would have taken effect in July.

Councilmember Wilson said his understanding was the moratorium was passed because there were already at least two dispensaries in the City and that they were legal as long as there was one-to-one dispensing. He asked if doing nothing was effectively returning the City to that position. Ms. Drummond answered the citizen's initiative allows a person to grow their own marijuana for their own use and includes a provision for a provider. A dispensary is essentially a pharmacy where multiple people are provided medical marijuana, a much more intensive operation than the citizen's initiative provided for.

Councilmember Wilson agreed that is how most would interpret the initiative but in practice there are still medical marijuana dispensaries operating in the City. He noted some cities such as Seattle and Tacoma have effectively chosen not to act. It is his understanding that Edmonds staff has chosen to follow the law and to act. Police Chief Al Compaan commented the main reason this was presented to the Council some months ago was there was one dispensary operating in the City and a business license application had been submitted for a second dispensary. According to the City's legal counsel, Washington Cities Insurance Authority (WCIA) and his personal knowledge of the law, that presented a conundrum as far as whether or not dispensaries are legal. The people operating the dispensaries argued they were legal under the citizen's initiative passed in 1998. The Council passed a moratorium while the legislature considered the matter. The best conclusion, written by WCIA attorney Mark Bucklin, states in part: medical marijuana dispensaries that sell cannabis products remain illegal. The fact that the Legislature went to great lengths to try and make them legal and then failed by virtue of the Governor's veto, re-enforces the

argument that they were never legal. A letter the US Attorney for Eastern and Western Washington sent to Governor Gregoire reinforces that the sale, use, possession, distribution of marijuana under federal law remains illegal.

Chief Compaan explained the Council could do nothing tonight or could adopt an approach whereby the City would have the option to license or not license a medical marijuana dispensary the same as it chooses to license or not license any other business. The problem with that approach is that licensing medical marijuana dispensaries tacitly says they are legal which is not the legal advice provided by WCIA. Chief Compaan recommended the Council do nothing tonight.

Councilmember Wilson pointed out in his statement, Mr. Bucklin states the obvious that selling cannabis remains illegal because the sale of cannabis has never been legal under the law. Chief Compaan clarified it is not legal under federal law. Councilmember Wilson pointed out it is also not legal under state law given the sale versus donation transaction. Chief Compaan agreed present federal law with regard to the sale, use, possession and distribution of marijuana could not be reconciled to the 1998 citizen's initiative.

Councilmember Wilson feared the City was opening itself to a lawsuit. Ms. Drummond responded by doing nothing the City was not setting itself up to be sued. State law is clear regarding the number of plants and ounces allowed per person and the designated provider. In individual cases there may be a question regarding whether a person is a patient or a provider. The moratorium prohibited medical marijuana dispensaries. Under the citizen's initiative a provider cannot provide medical marijuana for multiple patients; an individual designates one person as a provider.

If the Council did nothing Councilmember Wilson asked if it would be the City's policy to close any business that is operating an illegal activity including a business selling marijuana. Chief Compaan answered that is the position of the Police Department under current state and federal law. Further, approximately six months ago the Snohomish County Prosecutor Mark Roe went on record saying that medical marijuana dispensaries are illegal and he will prosecute and seek conviction. The Police Department is not out to prosecute people operating legitimately under state law as far as individuals who may have a medical authorization to use medical marijuana. The line between a provider and a retail store for the sale of medical marijuana continues to be a conundrum. He did not envision the conundrum in any of the 50 states would be entirely resolved until Congress chose to take on the issue. If there is a recognized use for marijuana in the medical profession, marijuana should be properly classified under the schedule of controlled substances, prescribed by physicians, and sold in pharmacies like any other prescription drug. Until and unless that happens, it will continue to be a problem for law enforcement and those who have a recommendation to use medical marijuana for legitimate medical purposes.

Councilmember Bernheim referred to the great danger that cigarettes and alcohol pose to youth and adults and asked whether cigarette and liquor dispensaries could be regulated by zoning. Ms. Drummond advised the City had the ability to regulate where a liquor store can be located or a store that sells cigarettes. Councilmember Bernheim asked whether the City further limit where those substances are sold if the City proves a link between use of cigarettes and alcohol and danger to citizens. Ms. Drummond answered that would be very difficult because it is regulated and preempted by state and federal law.

Mayor Cooper advised the Planning Board has removed this from their agenda until the Council requests they address it.

The Council took no further action on this agenda item.

10. DISCUSSION AND POTENTIAL ACTION: PROPOSED RESOLUTION REGARDING COUNCIL REVIEW OF MEDICAL BENEFITS.

Council President Peterson explained this was on the May 17 agenda. There was concern expressed at that time that the Council had not had enough time to review it and he offered to schedule it on a future

agenda. The resolution states the Council's support for continuing to develop information for a complete policy deliberation regarding medical benefits to include discussion of self-insurance.

Councilmember Buckshnis relayed a Lynnwood Councilmember stated to her at a Snohomish County Tomorrow meeting that Lynnwood is also interested in discussing self-insurance. She noted increases in medical benefit costs will continue to outpace inflation and 25-30% of the cost is overhead.

Councilmember Bernheim said he would rather not devote staff and/or financial resources to continue to explore this. Although not an expert on self-insurance or medical benefits, as an employer, he conducts a health benefit analysis every year. He questioned if the City had the staff to conduct the research and he preferred to rely on the search for competitive healthcare programs in an atmosphere of healthcare reform and price control.

COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE RESOLUTION NO. 1253, A RESOLUTION REGARDING COUNCIL REVIEW OF MEDICAL BENEFITS.

Council President Peterson commented he was still wary of the idea of self-insurance but felt the City was in the broader option phase. He was willing to continue researching options and would trust staff and the Public Safety & Human Resources Committee to ensure an inordinate amount of time was not spent on it. Further research may reveal other options that have not yet been considered such as partnering with another city.

Councilmember Buckshnis agreed with Council President Peterson, noting she too was very skeptical about self-insurance but has learned a lot. City staff is also very skeptical about self-insurance. She referred to Councilmember Wilson's memorandum explaining self-insurance. There is opportunity for the City to save a great deal of money. Staff does not necessarily administer the program, an independent party handles claims.

Councilmember Fraley-Monillas commented she did not yet have an opinion regarding self-insurance; she was still gathering information. She agreed with Council President Peterson it was appropriate to continue research/discussion. Anything that can save the City money is a good thing. She did not want to abandon the idea of self-insurance without complete information.

Councilmember Wilson explained he suggested to Council President Peterson that this not be scheduled on a future agenda. He noted Councilmembers Petso, Fraley and Bernheim have voiced concerns and although they may be willing to allow more research, he understood there may not be four votes at the end. Many staff members are not interested in self-insurance because self-insurance was tried 12 years ago but it was set up poorly and failed. If Councilmembers did not think they could get there, he implored them to vote against the resolution. If they voted for it, he was not asking for a commitment but if they did not think that there would ultimately be four votes to approve, he asked that they not vote in favor of the resolution to avoid wasting staff and the committee's time.

MOTION CARRIED (6-1), COUNCILMEMBER BERNHEIM VOTING NO.

11. APPROVAL OF A MEMORANDUM OF UNDERSTANDING FOR INTERJURISDICTIONAL AFFORDABLE HOUSING PROGRAM.

Planning Manager Rob Chave explained this was authorization for the Mayor to sign a Memorandum of Understanding (MOU) with other jurisdictions in Snohomish County to explore further the possibility of forming an Interjurisdictional Affordable Housing Program. The program is similar to ARCH in King County that is comprised of several jurisdictions who pool their resources. Affordable housing is not a subject that individual jurisdictions can effectively address because it is cost prohibitive for a single

jurisdiction to establish a program. The program is a coordinated way to leverage resources, act as a conduit for obtaining grants/donations, maintain a trust fund to address housing issues, provide technical assistance, etc.

Mr. Chave explained affordable housing is not the same as low income housing. Affordable housing is defined as households making less than median income and devoting more than 30% of their income to housing costs. When that occurs, paying for other needs such as education, food, etc. is more difficult. There are a large number of households in Snohomish County that meet the affordable housing need and it is not something the Housing Authority can address. Authorizing the Mayor to sign a MOU does not commit the City to signing on at the end of the process but rather is an indicator that the City is interested in discussing the program with other jurisdictions.

Councilmember Fraley-Monillas advised this was reviewed by the Community Services/Development Services Committee. She supported authorizing the Mayor to sign the MOU. She referred to language in the MOU that states while signing the MOU expresses the City's support, it does not constitute a final commitment to sign an Interlocal Agreement establishing the program nor does it commit the City to participating financially in the program. She asked what other cities were participating. Mr. Chave advised the MOU lists the 11 jurisdictions that have been active in reaching this point.

Councilmember Buckshnis recalled Shane Hope made a presentation to the Council last year regarding the program. Five local jurisdictions have agreed to participate including Mountlake Terrace, Snohomish County, Mukilteo and Lynnwood. The program utilizes the ARCH framework which has been very effective. There is no cost to the City at this point.

COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE MEMORANDUM OF UNDERSTANDING FOR INTERJURISDICTIONAL AFFORDABLE HOUSING PROGRAM.

Councilmember Plunkett expected all the members of the Council would support the MOU except him. He pointed out first the government enacts the GMA in 1993 restricting developable land. In Snohomish County only approximately 5% of the land can be developed. Restricting developable land increases the cost of homes. He disagreed with taking developable, cheaper land out of development and creating grants, programs to solve the problem created by GMA. He suggested a faster way would be for Snohomish County Tomorrow to have the Legislature define and expand the urban growth boundaries to open more affordable land to development; more affordable land results in more affordable housing. He anticipated the program would ultimately cost the City money and through various means will require subsidizing housing that does not need to be subsidized if developable, cheaper land were not removed from production.

Councilmember Wilson recalled when Ms. Hope made a presentation to the Council regarding this program, he did not support it due to the cost. He inquired about the proposed cost at that time. Mr. Chave did not recall the cost. There have been discussions regarding the cost being proportional to the participating jurisdictions' population. He anticipated the cost will be in the range of \$10,000. Councilmember Buckshnis anticipated cost will be approximately \$8,000. Mr. Chave relayed there have been discussions regarding the cost initially being quite low given the realities of jurisdictions' budgets. The cost will also depend on the benefits provided to jurisdictions via the program.

Councilmember Wilson asked what the City could do with \$10,000. Mr. Chave answered the City previously had a line item in the budget for interns; \$10,000 would buy a fair amount of interns. Interns were used to do tasks like land use inventories that have not been done in the recent past. He noted \$10,000 was a small enough amount that its use was limited. For example it was not enough to leverage grants. However \$10,000 as part of a larger multi-jurisdictional effort could do more than a city could do

on its own particularly in regard to housing. As part of an interjurisdictional program, \$10,000 may make an incentivized affordable housing program possible. The City does not currently have any way to administer an incentive program for developers who provide a certain percentage of affordable units.

Councilmember Wilson summarized he would like to support this but whatever the allocation is, it should go through the budget process. The question is not whether \$10,000 is well spent, he agreed it will be; the question is the Council's priorities. The MOU commits the City in principle; it states the purpose of the MOU is to acknowledge the commitment on the part of each respective party...to develop and submit an Interlocal Agreement in 2012 and 2013 that funds staffing and administrative expenses. By passing the MOU, the Council is stating they will approve an Interlocal Agreement in the future to commit the City to funding in 2012 and 2013. He preferred to see other cities organize first and the City possibly commit in 2012 for 2013.

Councilmember Buckshnis expressed her support for the MOU and felt it was short sighted not to support it due to a potential \$10,000 cost. The Snohomish County Tomorrow dues are approximately \$6,000 and she envisioned funding one administrator would cost less than that. The MOU would allow the City to be progressive in dealing with affordable housing and provides the synergy of other jurisdictions. She recognized Councilmember Plunkett's philosophical disagreement with the GMA, commenting natural resources are just as important as economic resources. She recalled while doorbelling seniors mentioning they had to move out of the bowl because of the cost of housing. She found the MOU very progressive and it is her understanding there will be no fee next year.

Councilmember Fraley-Monillas asked if the City could get out of the MOU in the future. City Attorney Jeff Taraday answered yes, the first stage is a very low commitment. The MOU does not bind the City to subsequent adoption of an Interlocal Agreement and the MOU can be terminated upon 60 days notice. He summarized it was not a significant commitment. He pointed out the MOU is also not necessarily a unique opportunity that the City could not avail itself of later. Section 2.2 of the MOU contains a provision for new members. If the Council is interested in approving the MOU in the future, that appears to be an option.

Councilmember Fraley-Monillas pointed out there is no request for funds nor is there a commitment to future funding. Mr. Chave agreed. The MOU only requests representatives participate in the process which would be Councilmember Buckshnis and/or him. Councilmember Fraley-Monillas asked whether staff would return to the Council if there was a financial impact in the future. Mr. Chave advised they would, anticipating funding would be part of a budget discussion.

Councilmember Fraley-Monillas observed the benefit of participating in the MOU at no cost is having a seat at the table. Mr. Chave agreed it would enable the City to participate in the discussion regarding the focus of the program, timing, etc.

MOTION CARRIED (5-2), COUNCILMEMBERS PLUNKETT AND WILSON VOTING NO.

12. MAYOR'S COMMENTS

Mayor Cooper announced today the Division 1 Washington State Court of Appeals affirmed the authority of cities to offer broadband telecommunications services to individuals and private businesses. He clarified the courts have said Edmonds can sell its excess broadband capacity. He offered to forward the email regarding the decision to the Council.

Mayor Cooper reminded of the dedication of the Sounder Station on July 8. The "Standing Wave" public art has been moved to that location. He encouraged the Council and the public to attend and celebrate this addition to the transportation infrastructure.

Mayor Cooper thanked the Chamber of Commerce for their commitment and the large number of volunteers who make the fireworks, parade and activities at City Park possible on the 4th of July. He also thanked City staff; if not for the partnership between the City and the Chamber of Commerce, the activities on the 4th of July would not be possible. The Public Works and Parks & Recreation employees get the City ready for events during the week and the Police Department all work on 4th of July. He also thanked the employees of Fire District 1. A briefing from the Fire Marshal today indicated there were three small brush fires in the City as a result of fireworks which was good compared to other communities. According to the Police Department, everyone was well behaved. He thanked everyone responsible for the 4th of July festivities.

13. COUNCIL COMMENTS

Councilmember Wilson gave kudos to the Chamber of Commerce for the 4th of July events, noting it was one of the better 4th of Julys he has participated in.

Councilmember Bernheim referred to the Annual Police Report included in the Council packet (Consent Agenda Item E), noting it appears serious crime has not increased significantly in Edmonds. The report also indicates most crime has moderated or decreased somewhat over the past five years with the exception of a few increases. He found that reassuring and was glad the City's public safety has improved without necessarily adding more police officers.

Councilmember Bernheim reported the Chamber of Commerce's annual directory contains all the City's boards and commissions. He thanked all the volunteer members of the City's boards and commissions.

Councilmember Bernheim commented the report by the Parks & Recreation Director indicated the City needs to establish user fees for things like the petanque court, the fishing pier, parking in the parks, the off leash area, etc. He was not in favor of user fees and preferred government fund those activities but recognized as the Council continued its levy discussions, citizens will question funds spent on things like constructing the petanque court, maintaining the fishing pier, etc. He distributed a draft proposal for an asphalt/roads levy, an infrastructure/preservation levy and a General Fund levy.

Councilmember Buckshnis thanked Ms. Hite for her presentation regarding parks. She reported during the Waterfront Festival, dog owners paid \$15 to park and use the dog park. She suggested an annual pass for parking in a park, noting tourism can generate money via parking fees.

Councilmember Buckshnis thanked the Chamber of Commerce, Mayor Cooper and staff for the great 4th of July and Councilmember Fraley-Monillas being her driver in one of the City's electric cars.

Councilmember Petso thanked the blogger who reports the City's news and for those who participate on the blog. From that blog she learned over the weekend that unbeknownst to her she is on the Parking Committee. Rather than posting it on a public blog, she invited citizens to contact her by phone or email to inform her of a committee assignment she is unaware of.

Councilmember Fraley-Monillas commented she and her family spend a great deal of time at the fishing pier. The fishing pier keeps kids off the streets and gives them constructive things to do. She thanked Fleet Maintenance Manager Dave Sittauer for showing her how to drive the Prius in the parade. She had a great time at the parade; Councilmember Buckshnis rode in the Prius as well as her son and one of his friends in the open trunk. She thanked the Chamber of Commerce for the great 4th of July celebration.

Council President Peterson echoed the Councils' accolades regarding the 4th of July. He commented Councilmember Fraley-Monillas' son Dominic is more famous than any Councilmember. The City's

Priuses were showcased in the parade as well as a loaned Nissan Leaf; the City has two Nissan Leafs on order. The Priuses and Leafs were purchased using federal grants.

Council President Peterson invited Councilmembers to inform him of items/issues they would like scheduled on future agendas.

14. ADJOURN

With no further business, the Council meeting was adjourned at 9:10 p.m.